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*Extracts from the*

**BUSINESS AND PROFESSIONS CODE**

*of California*

**PERTAINING TO**

**WEIGHTS AND MEASURES**  
**AND PETROLEUM PRODUCTS**

**JANUARY 2005**



**CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE**  
**DIVISION OF MEASUREMENT STANDARDS**



## GENERAL PROVISIONS

### **§ 12024.1. MISREPRESENTING CHARGE FOR SERVICE RENDERED: MISDEMEANOR**

Every person, by himself, or through or for another, who willfully misrepresents a charge for service rendered on the basis of weight, time, measure, or count is guilty of a misdemeanor.

*Added Stats 1969 ch 731 § 1.*

### **§ 12024.2. UNLAWFUL COMPUTATION OF VALUE: MISDEMEANOR: INFRACTION UNDER DESIGNATED CIRCUMSTANCES**

(a) It is unlawful for any person, at the time of sale of a commodity, to do any of the following:

(1) Charge an amount greater than the price, or to compute an amount greater than a true extension of a price per unit, that is then advertised, posted, marked, displayed, or quoted for that commodity.

(2) Charge an amount greater than the lowest price posted on the commodity itself or on a shelf tag that corresponds to the commodity, notwithstanding any limitation of the time period for which the posted price is in effect.

(b) A violation of this section is a misdemeanor, punishable by a fine of not less than twenty-five dollars (\$25) nor more than one thousand dollars (\$1,000), by imprisonment in the county jail for a period not exceeding one year, or by both, if the violation is willful or grossly negligent, or when the overcharge is more than one dollar (\$1).

(c) A violation of this section is an infraction, punishable by a fine of not more than one hundred dollars (\$100), when the overcharge is one dollar (\$1) or less.

(d) As used in subdivisions (b) and (c), “overcharge” means the amount by which the charge for a commodity exceeds a price that is advertised, posted, marked, displayed, or quoted to that consumer for that commodity at the time of sale.

(e) Except as provided in subdivision (f), for purposes of this section, when more than one price for the same commodity is advertised, posted, marked, displayed, or quoted, the person offering the commodity for sale shall charge the lowest of those prices.

(f) Pricing may be subject to a condition of sale, such as membership in a retailer-sponsored club, the purchase of a minimum quantity, or the purchase of multiples of the same item, provided that the condition is conspicuously posted in the same location as the price.

*Amended Stats 1977 ch 778; Amended Stats 1982 ch 1380 § 2; Amended Stats 1983 ch 1245 § 1; Amended Stats 1988 ch 922 § 1; Amended Stats 2004 ch 752, § 2.*

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### **§ 12024.3. SELLING PREPACKAGED COMMODITIES IN LESS QUANTITY THAN REPRESENTED: MISDEMEANOR: INFRACTION**

(a) For commodities prepackaged and sold or offered for sale on the same premises, a violation of Section 12024 is a misdemeanor punishable by a fine of not less than fifty dollars (\$50) nor more than one thousand dollars (\$1,000), by imprisonment in the county jail for a period not exceeding one year, or by both, if any of the following occurs:

(1) The violation is willful.

(2) The total monetary value of the shortage, calculated on the basis of the average error of an individual lot, exceeds two dollars (\$2), as determined pursuant to regulations adopted pursuant to Section 12211.

(3) The total monetary value of shortages, calculated on the basis of the average error of each individual lot, as determined from a sample of packages selected pursuant to regulations adopted pursuant to Section 12211, within all lots found to be in violation of Section 12024 at a single location, exceeds ten dollars (\$10).

(b) For commodities prepackaged and sold or offered for sale on the same premises, a violation of Section 12024 is an infraction, punishable by a fine of not more than one hundred dollars (\$100), if the violation is of less monetary value than that specified in subdivision (a) and it is not willful.

*Added Stats 1982 ch 1380 § 3; Amended Stats 1983 ch 1245 § 2.*

### **§ 12024.5. SALE OF FOWL, MEAT OR FISH OTHER THAN BY WEIGHT: READY-TO-EAT ITEMS**

It is unlawful for any person to sell or advertise for sale any dressed poultry or any other fowl or rabbit in dressed form, either cooked or uncooked, or smoked, fresh, frozen, cooked, dried, or pickled meats or fish other than by weight determined at the time of sale on a scale properly sealed in accordance with this division. Any commodity specified in this section, however, need not be weighed at the time of sale if at that time it is packed in a package or container upon which appears the net weight of the commodity therein. Except as provided below, any person, including, but not limited to, a manufacturer, processor, packer, wholesaler, or jobber that packs any commodity specified in this section in any package which is intended for retail sale, shall mark the net weight of the commodity therein upon the package. Packages of these products intended for retail sale need not be marked by the packer with the net weight of the commodity if they are to be marked with the net weight of the commodity by the retailer who purchases or receives the packages from the packer. This section does not apply to any of the following ready-to-eat food items:

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- (a) Items sold for consumption on the premises.
- (b) Items sold as one of three or more different elements, excluding condiments, comprising a ready-to-eat meal sold as a unit, for consumption elsewhere than on the premises where sold.
- (c) Ready-to-eat meat, poultry, or seafood cooked or heated on the premises but not packaged in advance of sale.
- (d) Sandwiches when offered or exposed for sale on the premises where packed or produced and not intended for resale.

*Added Stats 1939 ch 1028 § 1; Amended Stats 1941 ch 861 § 1; Stats 1949 ch 1384 § 2; Stats 1955 ch 394 § 1; Stats 1957 ch 566 § 1; Stats 1965 ch 713 § 1; Stats 1967 ch 176 § 1; Stats 1969 ch 411 § 1; Amended Stats 1986 ch 1516 § 1.*

### **§ 12024.55. DOOR-TO-DOOR SALESPERSONS: PRICE STATEMENT ON PACKAGES**

Packages of meat, fish or poultry offered for sale by door-to-door salespersons shall display the price per pound for each type and cut in the package. The price per pound shall be separately and accurately stated and shall be preceded by the words “price per pound” on each principal display panel of the package, as the term “principal display panel” is defined by regulations of the director adopted pursuant to Section 12610. All numbers and letters of the price per pound shall be of uniform size, at least one-quarter inch (6.35 millimeters) in height, and shall be generally parallel to the net quantity statement. There shall in addition be an area surrounding the statement of price at least equal in width to the height of the letters and numbers in the statement of price which shall be free of any printed material.

*Added Stats 1979 ch 527 § 4; Repealed Stats 1982 ch 532 § 1; Added Stats 1982 ch 532 § 2.*

### **§ 12024.6. PROHIBITION OF ADVERTISING INTENDED TO ENTICE CUSTOMER INTO TRANSACTION OTHER THAN REPRESENTED**

No person, firm, corporation, or association shall advertise, solicit, or represent by any means, a product for sale or purchase if it is intended to entice a customer into a transaction different from that originally represented.

*Added Stats 1975 ch 907 § 1.*

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### **§ 12024.7. STATEMENT OF WEIGHT AND TYPE OF CUTS OF MEAT SOLD: ITEMIZED STATEMENT SHOWING QUANTITY OF FRUITS, VEGETABLES AND OTHER FOOD PRODUCTS DELIVERED IN CONNECTION WITH MEAT SALE**

Any person who sells meat directly to the consumer on the basis of primal cuts or carcass weight shall supply the buyer with an accurate statement of weight at time of sale of the carcass or primal cut purchased, and shall supply a complete and accurate statement which shall contain the weight of the meat delivered to the buyer and the number and type of cuts. When any fruits, vegetables, or other food products are sold as part of a combination sale with meat sold directly to the consumer on the basis of primal cuts or carcass weight, the seller shall supply an itemized statement showing the net quantity of any fruits, vegetables, and other food products delivered to the buyer. This section shall also apply to any person who custom cuts any meat animal carcass or part of such carcass for the owner, except the carcass of any game mammal taken as authorized by the Fish and Game Code.

*Added Stats 1967 ch 1449 § 1.*

### **§ 12024.8. INAPPLICABILITY OF PROVISIONS TO FISH NOT USED FOR HUMAN CONSUMPTION**

The provisions of Section 12024.5 shall not apply to fish not used for human consumption.

*Added Stats 1968 ch 141 § 1, effective May 16, 1968.*

### **§ 12024.9. STATEMENT OF WEIGHTS SUPPLIED TO CONSUMER UPON DIRECT SALE OF MEAT ON BASIS OF PRIMAL CUTS OR CARCASS WEIGHT**

(a) All terms contained in this section which are defined by the United States Department of Agriculture shall have the same meaning as defined by such department.

(b) "Retail cuts" as used in this section shall mean a cut of meat from a primal cut for direct sale to the consumer.

(c) "Freezer meat" as used in this section means any uncooked meat which is sold directly to the consumer on the basis of primal cuts, carcass weight or any specified portion of a carcass, other than retail cuts.

(d) "Variety pack" as used in this section means freezer meat cut or packaged, or both, into retail cuts or other frozen food products, or both, sold for a stipulated total price.

(e) "Consumer" as used in this section means any purchaser of freezer meat or variety pack meat.

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(f) Whenever any retail cuts of meat are sold in a variety pack the retailer shall furnish, at the time of sale, an itemization of the total net weight of each of the various retail cuts sold and the total net weight of the entire meat purchase, and a separate itemization shall be furnished for frozen food products other than meat indicating price and weight of each product.

(g) Whenever freezer meat is sold directly to the consumer, the consumer shall be supplied at the time of sale with the weight of the carcass or primal cuts before cutting and a complete and accurate inventory which shall contain the net weight of meat delivered. The consumer shall also be supplied with complete cutting instructions for each cut of meat process and an exact inventory of each such cut. The consumer shall also be furnished with the total weight of ground meat from carcass or primal cuts.

(h) A half of beef shall consist of a forequarter and a hindquarter from the same animal. When beef is sold as a half of beef, the consumer shall be furnished an invoice listing the weight of each such quarter. Not more than 8 percent tolerance differential shall be allowed.

(i) Whenever the consumer buys freezer meats or variety packs, the entire order shall be delivered to the consumer or held and maintained in storage and available for such consumer.

*Added Stats 1975 ch 454 § 1.*

### **§ 12024.10. RETENTION OF DOCUMENT STATING WEIGHT AND CUT OF MEAT SOLD**

A true and legible copy of each document issued pursuant to Section 12024.7 or 12024.9 shall be retained by the person, company, or corporation issuing the document for a period of one year and shall be made available for inspection by a sealer upon request. This section shall not apply to primal cuts of meat which are smaller than one quarter of a carcass.

*Added Stats 1981 ch 758 § 1.*

### **§ 12024.11. REGULATION OF THE SALE OR ADVERTISEMENT OF WOOD FUEL**

The director shall adopt necessary rules and regulations pertaining to the sale or advertisement of wood for fuel purposes in order to standardize quantities of measurement and to protect against deceptive marketing practices.

*Added Stats 1982 ch 758 § 1.*

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### **§ 12024.12. MAINTAINING RECORDS FOR KOSHER MEAT PURCHASES**

(a) Any person who sells fresh meat or poultry advertised or represented to be kosher shall retain, on the premises, for one year, a true and legible copy of all invoices and records of cash or charge transactions from the packer or producer of the kosher meat or poultry and shall make these documents, and other evidence of the source of the meat being housed or sold by that person, available for inspection by the Department of Food and Agriculture or its representatives, upon request.

(b) Notwithstanding any other provision of law, the Director of Food and Agriculture shall enforce this section, as a pilot program in the Counties of Alameda, Los Angeles, Orange, San Diego, and Santa Clara and the City and County of San Francisco if adequate funding, as determined by the director, is made available.

(c) Upon finding a violation of this section, the Department of Food and Agriculture may remove from the premises the meat or poultry that is the subject of the violation.

(d) This section shall remain in effect only until January 1, 1994, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1994, deletes or extends that date.

*Added Stats 1985 ch 452 § 1; Amended Stats 1986 ch 1193 § 1; Amended Stats 1988 ch 990 § 1; Amended Stats 1992 ch 63 § 1.*

### **§ 12025. REFUSAL TO EXHIBIT COMMODITY BEING SOLD AT GIVEN WEIGHT OR QUANTITY: MISDEMEANOR**

Any person, who by himself, or his employee or agent, or as proprietor or manager, refuses to exhibit any commodity being sold at a given weight or quantity, or ordinarily so sold, to a sealer for the purpose of allowing the same to be proved as to the quantity thereof is guilty of a misdemeanor.

*Added Stats 1939 ch 43 § 1.*

### **§ 12025.5. IDENTIFICATION OF COMMODITY OR CONTAINER ORDERED OFF SALE UNDER §§ 12211 OR 12607**

Whenever any commodity or any container is ordered off sale under the provisions of Section 12211 or Section 12607 of this division, the sealer shall cause the commodity or container affected by such off-sale order to be identified by a tag or other suitable device with the words "off sale". It shall be unlawful to remove or obliterate any such tag or device placed upon such commodity or container or in any way dispose of or commingle such commodity or container or prepare, pack, place, deliver for shipment, deliver for sale, sell, or cause to be loaded, shipped, or transported, any such commodity or container before it has been released by the sealer.

*Added Stats 1959 ch 1792 § 1; Amended Stats 1967 ch 272 § 2; Stats 1969 ch 1309 § 1.*

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### **§ 12026. VIOLATION OF PROVISIONS: MISDEMEANOR**

(a) Except as otherwise specifically provided, any person violating any of the provisions of this division is guilty of a misdemeanor.

(b) It is unlawful for any person to violate any of the rules, regulations, tolerances, specifications, or standards adopted under the provisions of this division.

*Added Stats 1939 ch 43 § 1; Amended Stats 1989 ch 818 § 1.*

### **§ 12026.5. REMEDIES AND PENALTIES PROVIDED AS NONEXCLUSIVE**

Except as otherwise specifically provided, the remedies or penalties provided by this division are cumulative to each other and to the remedies or penalties available under all other laws of this state.

*Added Stats 1979 ch 527 § 5.*

### **§ 12027. RULES AND REGULATIONS AUTHORIZED**

The director may make such rules and regulations as are reasonably necessary for the purpose of carrying out the provisions of this division.

*Added Stats 1939 ch 43 § 1; Amended Stats 1957 ch 1749 § 28.*

### **§ 12028. ADOPTION OF REGULATIONS**

On or before July 1, 1995, the secretary shall adopt regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code that specify the types of violations for which civil penalties may be imposed pursuant to Section 12015.3, the amount of the penalty for each violation, and a procedure for providing notice to the person charged with a violation of that section. The amount of the penalty shall be based upon the seriousness of the violation and the potential for harm. No investigative costs shall be imposed pursuant to Section 12015.5 for violations for which civil penalties are imposed pursuant to Section 12015.3.

*Added Stats 1994 ch 592 § 4; Amended Stats 2004 ch 676 § 8.*

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### **§ 12029. LEGISLATIVE ANALYST STUDY OF CIVIL PENALTIES**

The Legislative Analyst shall conduct a study of the civil penalties imposed pursuant to Section 12015.3 and report its findings to the Legislature and the Governor by January 1, 2000. The report shall include all of the following:

- (a) An analysis of whether civil penalties are effective as an alternative enforcement mechanism for violations of weights and measures laws and regulations.
- (b) A review of how the department and the counties use the revenue brought in from the civil penalties.
- (c) A recommendation on whether civil penalties are a feasible alternative to criminal prosecution and criminal penalties.

*Added Stats 1997 ch 476 § 2.*

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(4) For purposes of this subdivision, the motor fuel shall be sold in the same unit of measure (e.g., gallons or liters) in which the discount and the price from which the discount is taken are advertised.

(c) In the event that the same grade of motor fuel is sold at different prices from any single place of business, it is unlawful for any person to display any advertising medium which advertises a price of a grade of motor fuel unless the advertising medium advertises in numerals of equal size each of the higher prices, including all taxes, for which the grade is sold or offered for sale, and unless the advertising medium explains the conditions, and any limitations, under which that grade is sold or offered for sale at different prices. The words of explanation shall be clearly shown in letters at least one-third the size of the numerals indicating the prices. The different prices at which the same grade of motor fuel is sold or offered for sale shall be advertised in the same unit of measure (either price per gallon or price per liter) as permitted or required by law.

(d) Nothing in this section prohibits any person who has posted or displayed a sign or advertising medium in compliance with this chapter from displaying additional signs or advertising media which state either (1) the amount of discount in cents per gallon or liter, or (2) the price of one or more brands or grades of motor fuel sold or offered for sale, provided the conditions and any limitations of the discount or price of the brand or grade of motor fuel are included in the additional advertising media in letters not less than one-third the size of the numerals indicating the discount or price.

*Added Stats 1984 ch 698; Amended Stats 1985 ch 345 § 5; Amended Stats 1988 ch 590 § 8.*

### **§ 13533. MOTOR OIL: CONTENTS OF DISPLAY**

It shall be unlawful for any person to display on or near the premises of any place of business in this state any advertising medium which advertises the price of motor oil offered for sale without conspicuously showing on the same advertising medium the brand of the motor oil and the name of the product. The letters, figures and numerals used to designate the brand and the name of the product shall not be less than one-half the size of the numerals designating the price.

*Added Stats 1984 ch 698.*

### **§ 13534. ADDITIONAL ADVERTISING MATTER**

(a) Except as provided by subdivision (b), and subdivisions (b), (c), and (d) of Section 13532, it is unlawful for any person to place any additional advertising matter on any advertising medium referred to in this article except:

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(1) A description of the products offered for sale in letters or numerals not larger than the price numerals.

(2) Methods of sale, such as self-serve or full-serve, in letters not less than one-third the size of the price numerals.

(3) Words describing the type of services offered at the place of business, such as food market, car wash, tune-up, and the registered trademark or trade name of the service, but not the price of the service.

(b) Subdivision (a) does not apply to electronic changeable message centers when the advertising content includes both the product offered for sale and its price in a single advertising message, or when the product and price components of the advertising message clearly relate to one another and the price neither starts nor ends the message.

*Added Stats 1984 ch 698; Amended Stats 1985 ch 345 § 6; Repealed and Added Stats 1988 ch 590 §§ 9 and 10; Amended Stats 2004 ch 72 § 1.*

### **§ 13535. MOTOR FUEL OR MOTOR OIL WITH NO BRAND DESIGNATION**

If any motor fuel or motor oil is advertised for sale, but not under any brand designation, the words “no brand” shall be used on the advertising medium as a brand designation.

*Added Stats 1984 ch 698.*

### **§ 13536. LEGIBILITY**

All letters, words, figures, or numerals which are part of the advertising media referred to in this article shall have a heavy type face or stroke, shall be clearly visible, and of a color or tint that will contrast the letters, words, figures, or numerals with the background of the advertising media. The height of the letters, figures, and numerals, except the letter “1” and numeral one, shall not be more than twice the width.

*Added Stats 1984 ch 698.*

### **§ 13537. PLACEMENT OF ADVERTISING MEDIA**

*Added Stats 1984 ch 698; Repealed Stats 1986 ch 201.*

### **§ 13538. ADVERTISING OF OTHER GOODS**

*Added Stats 1984 ch 698; Repealed Stats 1986 ch 201.*

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### **§ 13539. ADVERTISING OF PRODUCT NOT SOLD ON PREMISES**

*Added Stats 1984 ch 698; Repealed Stats 1986 ch 201.*

### **§ 13540. LOCAL REGULATION**

Nothing in this article shall be construed to prohibit the governing body of any city, county, or city and county from enacting ordinances, including, but not limited to, land use and zoning ordinances, which impose restrictions on the advertising medium referred to in this article, so long as any provisions of the ordinances dealing with matters specifically covered in this article are identical to this article.

*Added Stats 1984 ch 698.*

## **ARTICLE 13**

### **Inducements for the Sale of Gasoline or Motor Fuel**

**[Added by Stats 1974 ch 519 § 1.]**  
**Renumbered Stats 1980 ch 636.**

### **§ 13550. PARTICIPATION IN GIVEAWAY PROGRAMS BY RETAIL DEALERS NOT TO BE MADE COMPULSORY**

No petroleum corporation or distributor shall compel or unduly or unreasonably influence any retail gasoline dealer to participate in the giveaway or offer to give away free of charge any item of value, including trading stamps or any kind of merchandise or goods, whether or not such giveaway is conditional upon the purchase of gasoline, motor fuel or petroleum products. The decision to participate in such giveaways shall be solely that of the retail gasoline dealer. Nothing in this section shall prohibit a retail gasoline dealer from entering into an agreement to participate in any such giveaway program.

*Added Stats 1974 ch 519 § 1; Renumbered Stats 1980 ch 636.*

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### ARTICLE 14

#### Passing Off

Renumbered Stats 1980 ch 636.

- § 13560. Repealed.
- § 13561. Right to sell product of manufacturer under seller's own trademarks, etc., or words "no brand," on authorization therefore
- § 13562. Change of designation under which product purchased: Authorization
- § 13563. Repealed.
- § 13564. Repealed.
- § 13565. Repealed.
- § 13566. Repealed.
- § 13567. Repealed.
- § 13568. Written authorizations: Furnishing copies
- § 13569. Repealed.
- § 13570. Percentage of alcohol to be stated on normal business records
- § 13571. Inspection of documentation

#### **§ 13560. FALSE REPRESENTATION AS TO MANUFACTURER, REFINER, PRODUCER, IMPORTER, BRAND OR TRADE NAME, OR SAE NUMBER CLASSIFICATION OF PRODUCT**

*Added Stats 1963 ch 2005 § 2; Amended Stats 1975 ch 547 § 21; Renumbered Stats 1980 ch 636; Repealed Stats 1986 ch 201*

#### **§ 13561. RIGHT TO SELL PRODUCT OF MANUFACTURER UNDER SELLER'S OWN TRADEMARKS, ETC., OR WORDS "NO BRAND", ON AUTHORIZATION THEREFORE**

This article does not prohibit any person from selling under his own trademarks, trade names, brands, or the words "no brand", the product of any manufacturer if such person has first obtained the written authorization of the true manufacturer so to sell such product.

*Added Stats 1965 ch 1394 § 1; Renumbered Stats 1980 ch 636.*